

Assembly Bill No. 1965

CHAPTER 234

An act to amend Sections 113709 and 114259.5 of the Health and Safety Code, relating to outdoor dining facilities.

[Approved by Governor August 21, 2014. Filed with
Secretary of State August 21, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1965, Yamada. Outdoor dining facilities: pet dogs.

The California Retail Food Code provides for the regulation of health and sanitation standards for retail food facilities, as defined, by the State Department of Public Health. Under existing law, local health agencies are primarily responsible for enforcing this code. A violation of these provisions is punishable as a misdemeanor.

The code prohibits live animals from being allowed in a food facility, except under specified conditions if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result.

This bill would authorize a food facility to allow a person to bring a pet dog in outdoor dining areas if specified conditions are satisfied. The bill would authorize a city, county, or city and county to prohibit that conduct by ordinance.

The people of the State of California do enact as follows:

SECTION 1. Section 113709 of the Health and Safety Code is amended to read:

113709. This part does not prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, from regulating the provision of consumer toilet and handwashing facilities, from adopting requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon a street pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code, or from prohibiting the presence of pet dogs in outdoor dining areas of food facilities.

SEC. 2. Section 114259.5 of the Health and Safety Code is amended to read:

114259.5. (a) Except as specified in this section, live animals may not be allowed in a food facility.

(b) Live animals may be allowed in any of the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result:

(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems.

(2) Animals intended for consumption if the live animals are kept separate from all food and utensil handling areas, are held in sanitary conditions, are slaughtered in a separate room designed solely for that purpose and separated from other food and utensil handling areas, and maintained in an area that has ventilation separate from food and utensil handling areas.

(3) Dogs under the control of a uniformed law enforcement officer or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) In areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.

(5) Pets in the common dining areas of restricted food service facilities at times other than during meals if all of the following conditions are satisfied:

(A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas.

(B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present.

(C) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(6) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

(7) If kept at least 20 feet (6 meters) away from any mobile food facility, temporary food facility, or certified farmers' market.

(c) Those persons and operators described in paragraphs (3) and (4) of subdivision (b) are liable for any damage done to the premises or facilities by the dog.

(d) Pet dogs under the control of a person in an outdoor dining area if all of the following conditions are satisfied:

(1) The owner of the food facility elects to allow pet dogs in its outdoor dining area.

(2) A separate outdoor entrance is present where pet dogs enter without going through the food establishment to reach the outdoor dining area and pet dogs are not allowed on chairs, benches, seats, or other fixtures.

(3) The outdoor dining area is not used for food or drink preparation or the storage of utensils. A food employee may refill a beverage glass in the outdoor dining area from a pitcher or other container.

(4) Food and water provided to pet dogs shall only be in single-use disposable containers.

(5) Food employees are prohibited from having direct contact with pet dogs while on duty. A food employee who does have that prohibited direct contact shall wash his or her hands as required by Section 113953.3.

(6) The outdoor dining area is maintained clean. Surfaces that have been contaminated by dog excrement or other bodily fluids shall be cleaned and sanitized.

(7) The pet dog is on a leash or confined in a pet carrier and is under the control of the pet dog owner.

(8) The food facility owner ensures compliance with local ordinances related to sidewalks, public nuisance, and sanitation.

(9) Other control measures approved by the enforcement agency.

(e) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result.